

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Carol Sturmer (Claimant) v. Metlife Securities, Inc., Nicholas Larusso, Paul D'Amico and Douglas James (Respondents)

Case Number: 04-00604

Hearing Site: Newark, New Jersey

Nature of the Dispute: Customer vs. Member and Associated Persons

REPRESENTATION OF PARTIES

Claimant, Carol Sturmer ("Sturmer") hereinafter referred to as "Claimant": Chad N. Cagan, Esq., Sonnenblick, Parker & Selvers PC, Freehold, NJ.

Respondents, Metlife Securities, Inc ("Metlife"), Nicholas Larusso ("Larusso"), Paul D'Amico ("D'Amico"), and Douglas James ("James") hereinafter collectively referred to as "Respondents": Robert P. Lesko, Esq., and Andrew Bunn, Esq., McCarter & English LLP, Newark, NJ.

CASE INFORMATION

Statement of Claim filed on or about: January 28, 2004.

Claimant signed the Uniform Submission Agreement: January 15, 2004.

Joint Statement of Answer filed by Respondents Metlife, Larusso, D'Amico, and James on or about: May 21, 2004.

Respondent Metlife signed the Uniform Submission Agreement: February 11, 2004.

Respondent D'Amico signed the Uniform Submission Agreement: June 9, 2004.

Respondent Larusso signed the Uniform Submission Agreement: June 9, 2004.

Respondent James did not submit a signed Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: suitability, breach of fiduciary duty, fraud, misrepresentations, securities law violations, self-regulatory organization rule violations, negligence, breach of contract, respondeat superior, aiding and abetting, failure to supervise, and control person liability. The causes of action relate to mutual funds.

Unless specifically admitted in their Answer, Respondents Metlife, Larusso, D'Amico and James denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested:

| | |
|----------------------|-----------------|
| Compensatory Damages | \$ 190,000.00 |
| Compensatory Damages | Market adjusted |
| Punitive Damages | Unspecified |
| Interest | Pre-judgment |
| Interest | Post-judgment |
| Attorneys' Fees | Unspecified |
| Other Costs | Unspecified |

Respondents requested that the Statement of Claim be dismissed with prejudice, assess Respondents' costs and attorneys' fees against Claimant, and grant such other and further relief as the Panel deems just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent James did not file with NASD Dispute Resolution a properly executed Uniform Submission Agreement but is required to submit to arbitration pursuant to the Code and, having answered the claim, is bound by the determination of the Panel on all issues submitted.

At the hearing in this matter, Respondents filed a Motion to Dismiss. The Panel reserved decision on the Motion.

At the hearing in this matter the Panel dismissed Respondent James but Mr. James appeared as a witness and testified at the hearings.

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims are dismissed in their entirety.
2. Any and all relief not specifically addressed herein, including punitive damages, is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain or collect the non-refundable filing fees for each claim:
Initial claim filing fee = \$ 300.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated persons at the time of the events giving rise to the dispute. Accordingly, Metlife is a party.

| | |
|-------------------------|---------------|
| Member surcharge | = \$ 1,700.00 |
| Pre-hearing process fee | = \$ 750.00 |
| Hearing process fee | = \$ 2,750.00 |

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

| | |
|--|---------------|
| April 18-21, 2005 adjournment requested by Respondents | = \$ 1,125.00 |
|--|---------------|

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

| | |
|--|--------------|
| Two (2) Pre-hearing sessions with Panel @ \$1,125.00 | = \$2,250.00 |
| Pre-hearing conferences: July 13, 2004 | 1 session |
| September 2, 2004 | 1 session |

| | |
|---------------------------------------|--------------|
| Six (6) Hearing sessions @ \$1,125.00 | = \$6,750.00 |
| Hearing Dates: June 27, 2005 | 2 sessions |
| June 28, 2005 | 2 sessions |
| June 29, 2005 | 2 sessions |

| | |
|------------------|--------------|
| Total Forum Fees | = \$9,000.00 |
|------------------|--------------|

1. The Panel has assessed \$1,125.00 of the forum fees to Claimant.
2. The Panel has assessed \$7,875.00 of the forum fees to Respondent Metlife.

Fee Summary

1. Claimant is solely liable for:

| | |
|--------------------|---------------|
| Initial Filing Fee | = \$ 300.00 |
| Forum Fees | = \$ 1,125.00 |
| Total Fees | = \$ 1,425.00 |
| Less payments | = \$ 1,425.00 |
| Balance Due NASD | = \$ 0.00 |

2. Respondent Metlife is solely liable for:

| | |
|-------------------------------------|----------------------|
| Member Fees | = \$ 5,200.00 |
| Adjournment Fee | = \$ 1,125.00 |
| <u>Forum Fees</u> | <u>= \$ 7,875.00</u> |
| Total Fees | = \$14,200.00 |
| <u>Less payments</u> | <u>= \$ 5,200.00</u> |
| Balance Due NASD Dispute Resolution | = \$ 9,000.00 |

All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

| | | |
|------------------|---|--|
| Allen Kilik | - | Public Arbitrator, Presiding Chairperson |
| Robert W. Kenter | - | Public Arbitrator |
| Thomas Caiaffa | - | Non-Public Arbitrator |

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.



Allen Kilik
Public Arbitrator, Presiding Chairperson

7-3-05

Signature Date

Robert W. Kenter
Public Arbitrator

Signature Date

Thomas Caiaffa
Non-Public Arbitrator

Signature Date

July 6, 2005

Date of Service (For NASD Dispute Resolution use only)

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Signature Date

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